

- Petitioner opposes respondents' request for Summary Judgment due to; Miscarriage of justice now supplement submitted to ground of ineffective assistance of counsel, as No Counsel Appointed At All. See McQuiggin v. Perkins, — U.S. —, 133 S.Ct. 1924, 1931-33, 1936, 185 L.Ed.2d 1019 (2013) cites recognizing the Application of miscarriage of justice as an exception to justify consideration of procedurally default claims, that it is more likely than Not, No responsible juror would have convicted him in light of this present ground.

- Petitioner as evident was book in on April 19, 2012 and not given trial counsel till July 27, 2012 (as evident) as shown now by Petitioner as a Sixth Amendment and due process of rights violation. As see Maine v. Moulton, 474 U.S. 159, 170, 106 S.Ct. 477, 484, 88 L.Ed.2d 481, 492 (1985) cites ("[T]o deprive a person of counsel during the period prior to trial may be more damaging than denial of counsel during the trial itself.")

United States District Court
Southern District of Texas
FILED

AUG 07 2014

David J. Brailey, Clerk of Court

- See in Edward v. Carpenter, 529 U.S. 446, 451, 120 S.Ct. 1587, 1591, 146 L.Ed.2d 518, 523 (2000) reaffirms this cited exception.

- Ground Five: WAS there A miscarriage of justice by Authorities, AS A denial of due process AS A State Afforded right to be Arraigned and Appointed Afforded Counsel AS requested? See pursuant to Texas Code of Criminal Procedure Article 15.17 (a), (b); (a) cites: In each case ... person having the custody of the person arrested shall without unnecessary delay, but not later than 48 hours after arrest ... taken before a magistrate ... given right to counsel if requested; (b) cites: Arraignment of Accused which Hess was deprived April 19, 2012 till ~~July~~ July 27, 2012, "see page 1, in Events + Order of the Court 197th District Court Case Summary as Attach", date: 07/27/2012 cited!

As Petitioners' due process rights were violated in reference to State/Federal LAW AS to States' Bill of Rights and U.S. Constitution 6th Amendment AS to be deprive of counsel (ineffective assistance of counsel) And 5th And 14th Amendment.

6th cites: In all criminal prosecutions the accused shall enjoy ... to have assistance of counsel for his defense, the 5th And 14th cite No State shall ... deprive any person of life, liberty, or property without due process of law, Nor deny to any person of life, liberty, or property within its jurisdiction the equal protection of the law. Rights Hess AS shown WAS deprive here.

See in Hartsfield v. Colburn, 371 F.3d 454 (8th Cir. 2004) Hess AS pretrial detainee WAS entitled to protection under 14th Amendment AS under the 8th Amendment he WAS deprive. 8th Cites: No Cruel And unusual punishment inflicted, AS deprive Arraignment/Counsel For months.

As See Final Argument, AS petitioner opposes All State Attorney General's Traverse Response to § 2254 presented grounds of error And foregoing Supplement issue now presented to ground five error.

Petitioner was deprived by State Active Interference as requested access to the System (Courts) that has established for considering innocents and clemency petitions for due process is violated. See Noel v. Norris, 336 F.3d 648 (8th Cir. 2003) as denial of counsel cited.

Petitioner cites to Courts' holding to deprive a person of counsel during the period prior to trial may be more damaging than denial of counsel during trial itself. Maine v. Moulton, 474 U.S. 159, 170, 106 S.Ct. 477, 484, 88 L.Ed.2d 481, 492 (1985) See cited documents?

Petitioner cites his claim the States' conduct waived its jurisdiction over him as convicted prisoner, as shown the States' inactions were so affirmatively wrong, so grossly negligent as not arraigning nor assigning requested counsel for several months after booking/arrest violated due process he should be ordered release. See Camper v. Norris, 36 F.3d 782 (1994)

Miscarriage of Justice, exception to rule of forfeiture by ... procedural default is invoked by petitioners cited claim of errors to Constitution has resulted in his conviction who he is actually innocent of alleged crime and it is in light of evidence that not, that no reasonable juror would have found him guilty beyond a reasonable doubt based on admissible evidence. See e.g., Schlep v. Delo, 513 U.S. —, 115 S.Ct. 851, 130 L.Ed.2d 808, 836 (1995).

Supplement to Ineffective Assistance of Counsel: See Coleman v. Thompson, 501 U.S. 722, 754, 111 S.Ct. 2546, 2567, 115 L.Ed.2d 640, 672 (1991) ... cites: [I]t is not the gravity of the attorneys' error that matters, but that it constitutes a violation of petitioners' right to counsel as petitioners' cited ground.

The State of Texas
vs
SCOTT HESS

§
§
§
§
§

Location: 197th District Court
Judicial Officer: Lopez, Migdalia
Filed on: 06/20/2012
Prosecutor Control Number: DA2012-5839

CASE INFORMATION

Offense	Deg	Date	Case Type: Felony Offense
No Jurisdiction			
1. INDENC W/CHILD/EXPOSURE- 12B2011/TORTEYA ACN: 201208182	F3	04/19/2012	Case Flags: Omnibase
Arrest: 04/19/2012 BPD - Brownsville Police Department			
Jurisdiction: Brownsville PD			
2. INDENC W/CHILD/EXPOSURE- 12B2012/TORTEYA ACN: 201208182	F3	04/19/2012	
Arrest: 04/19/2012 BPD - Brownsville Police Department			

Statistical Closures

10/10/2012 CONVICTION - Guilty Plea or Nolo Contendere (OCA)

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	2012-DCR-01617
Court	197th District Court
Date Assigned	06/21/2012
Judicial Officer	Lopez, Migdalia

PARTY INFORMATION

State


ERSKINE, BRIAN

THE STATE OF TEXAS

Lead Attorneys

ERSKINE, BRIAN
956-544-0849(W)

Defendant






 HESS, SCOTT WILLIAM
DOB: 07/20/1962 Age: 49





SOROLA, LOUIS S.
Court Appointed
(956)504-2911(W)








DATE

EVENTS & ORDERS OF THE COURT

INDEX

06/20/2012	 Indictment or Information (OCA) Original Case Filed by Indictment or Information (OCA)
06/20/2012	 CR-43/CR-44 CR-43/CR-44
06/20/2012	 Order Transferring Cause (Judicial Officer: Leal, Janet) Order Transferring Cause
07/16/2012	 Notice of Arraignment (Judicial Officer: Lopez, Migdalia) Notice of Arraignment
07/27/2012	 Appointment of Attorney (Judicial Officer: Lopez, Migdalia)

	Party: Defendant's Attorney GALARZA, SANTIAGO <i>Appointment of Attorney</i>
07/31/2012	Precept HESS, SCOTT WILLIAM Served: 08/09/2012
08/07/2012	Arraignment Hearing (8:30 AM) (Judicial Officer: Lopez, Migdalia) Events: 06/20/2012 Indictment or Information (OCA)
08/07/2012	Journal Entry (Judicial Officer: Lopez, Migdalia) <i>Defendant arraigned and Pled Not Guilty; Announcement set for 09/21/12 & Trial 10/01/12 @ 9 a.m.; attorney requested Psy. Evaluation.</i>
08/07/2012	 Arraignment <i>Arraignment</i>
08/08/2012	 Order (Judicial Officer: Lopez, Migdalia) <i>Order Appointing Psychiatrist</i>
09/04/2012	Psychiatric Evaluation <i>Psychiatric Evaluation</i>
09/05/2012	Psychiatrist Evaluation (1:00 PM) (Judicial Officer: Lopez, Migdalia) <i>Status Hearing on report; Announcement set for 09/21/12 @ 9 a.m.</i>
09/05/2012	Journal Entry (Judicial Officer: Lopez, Migdalia) <i>Case reset for status review hearing on case.</i>
09/14/2012	Status Hearing (9:00 AM) (Judicial Officer: Lopez, Migdalia)
09/14/2012	Journal Entry (Judicial Officer: Lopez, Migdalia) <i>Defendant Pled Nolo Contendere; PSI Ordered.</i>
09/14/2012	 Written Waiver and Consent to Stipulation of Testimony <i>Written Waiver and Consent to Stipulation of Testimony, Waiver of Jury, and Plea of Guilty</i>
09/21/2012	Announcement (8:59 AM) (Judicial Officer: Lopez, Migdalia)
09/21/2012	Journal Entry (Judicial Officer: Lopez, Migdalia) <i>Defendant Pled Guilty; PSI Ordered.</i>
10/08/2012	 Pre-Sentence Investigation Report

	<p>Guilty</p> <p>2. INDENC W/CHILD/EXPOSURE- 12B2012/TORTEYA</p> <p>Guilty</p>
10/10/2012	<p> Disposition (Judicial Officer: Lopez, Migdalia)</p> <p>1. INDENC W/CHILD/EXPOSURE- 12B2011/TORTEYA</p> <p>Convicted -</p> <p>2. INDENC W/CHILD/EXPOSURE- 12B2012/TORTEYA</p> <p>Convicted -</p>
10/10/2012	<p>Sentence (Judicial Officer: Lopez, Migdalia)</p> <p>1. INDENC W/CHILD/EXPOSURE- 12B2011/TORTEYA</p> <p>Sentence - Prison (OCA)</p> <p>Confinement to Commence 10/10/2012</p> <p>10 Years , TDCJ - Prison, Texas Department of Criminal Justice</p> <p>Jail Credit 176 Days</p> <p>JUDGMENT OF CONVICTION SENTENCE TO INSTITUTIONAL DIVISION.</p> <p>2. INDENC W/CHILD/EXPOSURE- 12B2012/TORTEYA</p> <p>Sentence - Prison (OCA)</p> <p>Confinement to Commence 10/10/2012</p> <p>10 Years , TDCJ - Prison, Texas Department of Criminal Justice</p> <p>Jail Credit 176 Days</p> <p>JUDGMENT OF CONVICTION SENTENCE TO INSTITUTIONAL DIVISION.</p>
10/12/2012	<p> Attorney Fees Expense Claim Form (Judicial Officer: Lopez, Migdalia)</p> <p>Party: Defendant HESS, SCOTT WILLIAM</p> <p><i>Attorney Fees Expense Claim Form</i></p>
10/22/2012	<p>Inmate Trust Fund Order</p> <p><i>Inmate Trust Fund Order</i></p>
11/26/2012	<p>Pen Packet Received</p> <p><i>Pen Packet Received by Sheriff's Office</i></p>
12/10/2012	<p> Correspondence</p> <p><i>Correspondence from Defendant to Hon. Judge M.Lopez</i></p>
09/11/2013	<p> Findings of Fact</p> <p>Party: State THE STATE OF TEXAS</p>
09/11/2013	<p> Application for Writ of Habeas Corpus</p> <p><i>Application for Writ of Habeas Corpus Seeking Relief From Final Felony Conviction Under Code Of Criminal Procedure, Article 11.07</i></p>
09/17/2013	<p> Findings of Fact</p> <p>Party: State THE STATE OF TEXAS</p> <p><i>Findings Of Fact And Conclusions Of Law</i></p>
09/18/2013	<p>CANCELED Status Hearing (1:00 PM) (Judicial Officer: Lopez, Migdalia)</p> <p><i>Other</i></p> <p><i>1. Defendant's Pro-Se Application for a Writ of Habeas Corpus Seeking Relief from Final Felony Conviction Under Code of Criminal Procedure, Article 11.07</i></p>
09/20/2013	<p> Letter Acknowledging Receipt of Writ of Habeas Corpus</p>

197TH DISTRICT COURT

CASE SUMMARY**CASE NO. 2012-DCR-01617**

	<i>Letter Acknowledging Receipt of Writ of Habeas Corpus- Defendant</i>	
09/20/2013	<input checked="" type="checkbox"/> Letter Acknowledging Receipt of Writ of Habeas Corpus <i>Letter Acknowledging Receipt of Writ of Habeas Corpus- Hon Migdalia Lopez</i>	
10/31/2013	Scofflaw Removed	

DATE

FINANCIAL INFORMATION

Defendant HESS, SCOTT WILLIAM

Total Charges

609.00

Total Payments and Credits

61.50

Balance Due as of 11/15/2013**547.50**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

RE: Civil Action No. 1:13-CV-190

SCOTT WILLIAMS Hess,
Petitioner
v.

WILLIAM STEPHENS,
Respondent

Dear HONORABLE CLERK;

Please forward to proper court's Attention for review petitioners' traverse response of denial of respondents Motion For Summary Judgment. Petitioner has supplement Attachment of an issue dealing with cited miscarriage of justice which over rides (is exception) to any default allege by respondent. Please disregard my other resent response to issue. Enclosed is new presented cited evidence as already part of States' files/records.

Certificate OF Service

ON this 4th day of August, 2014 A true and correct copy of foregoing proceedings were sent by first U.S. MAIL, to Attorney for the respondent at Jon R. Meador, Ass. Attorney General, P.O. Box 12548, Capital Station, Austin, Texas 78711 and to U.S. District Court, 600 E. Harrison #101, Brownsville, Tx. 78520.

Respectfully Submitted;
x Scott W. Hess 8/4/2014
Scott William Hess #1841004
Michael Unit
2664 FM 2054
Tennessee Colony, Tx. 75886

Scott William HESS
Michael Unit #1841004
2664 Elm 2054
Tennessee Colony, Texas

75886

MAIL *MA*
United States District Court
Southern District of Texas

AUG - 7 2014

RECEIVED
David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
600 East Harrison #101
Brownville, Texas

78520

Legal Mail No. # 1:13--CV-190

